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PROPOSED ACTION ON REGULATIONS

TITLE 03. DEPARTMENT OF FOOD AND AGRICULTURE

Ovine Brucellosis — Notice File No. Z06-0608-01 793

TITLE 03. DEPARTMENT OF FOOD AND AGRICULTURE

Peach Fruit Fly Eradication Area — Notice File No. Z06-0613-02 795

TITLE 10. DEPARTMENT OF INSURANCE

Modified Guaranteed Annuity Regulations — Notice File No. Z06-0609-01 797

TITLE 16. BOARD FOR GEOLOGISTS AND GEOPHYSICISTS

Code of Professional Conduct — Notice File No. Z06-0613-01 805

TITLE 19. OFFICE STATE FIRE MARSHAL

Automatic Fire Extinguishing Systems — Notice File No. Z06-0607-02 806

TITLE 21. CALIFORNIA HIGHWAY-SPEED RAIL AUTHORITY

Selection Process for Private A&E Firms — Notice File No. Z06-0609-02 809

GENERAL PUBLIC INTEREST

DEPARTMENT OF CORPORATIONS

Invitation for Comments on Administrative Regulations Under the Corporate Securities Law (Pursuant to Government Code Section 11346(b)) 812

SUMMARY OF REGULATORY ACTIONS

Regulations filed with the Secretary of State 813

Sections Filed, January 11, 2006 to June 14, 2006 815

*Time-
Dated
Material*

The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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PROPOSED ACTION ON REGULATIONS

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TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture is proposing to take the action described in the Informative Digest. A public hearing is not scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department no later than **15 days prior to the close of the written comment period**. Any person interested may present statements or arguments in writing relevant to the action proposed to the person designated in this Notice as the contact person by **5:00 p.m. on August 7, 2006**. Following the public hearing, if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 407 of the Food and Agricultural Code, and to implement, interpret or make specific sections 9561, 9562, 9570, and 9574 of said Code, the Department proposes to amend section 760.4, amend the heading of Article 3.5, and adopt section 765 of Chapter 2, Division 2, of Title 3 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

OVINE BRUCELLOSIS

Food and Agricultural Code section 9561 authorizes the State Veterinarian of the Department to establish

regulations to prevent or eradicate any condition that could cause risk to animals or the health and safety of the citizens of this state. Section 9562 further authorizes the State Veterinarian to quarantine or restrict the movement of animals or animal products to minimize the risk of an illness that could kill or seriously damage other animals or humans. Section 9570 authorizes the State Veterinarian to restrict the importation of animals, animal products, or other property from any state, territory, or foreign country should a quarantine be invoked pursuant to section 9562.

In compliance with sections 9561, 9562 and 9570, the Department has in place existing ovine brucellosis interstate movement regulations under Article 3 (Interstate and Intrastate Movement of Sheep and Goats) of Chapter 2, Division 2, of Title 3 of the California Code of Regulations.

This proposal amends section 760.4 of Article 3, which is needed to further strengthen California's requirements for the importation of sheep by requiring additional testing of animals potentially having ovine brucellosis. The Department is also deleting a requirement that is no longer necessary in section 760.4(a)(2)(B) that rams used for breeding prior to returning to California must comply with the testing requirements of subsection (a)(2).

This proposal also amends the heading of Article 3.5 and adopts section 765 to set forth the requirements necessary to voluntarily establish a flock of sheep as *Brucella ovis* Free. *Brucella ovis* Free Flock Certification comes at the request of California's sheep industry to further prevent the introduction and spread of ovine brucellosis in California flocks and to facilitate the marketability of California sheep.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Department has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states. The following compliance requirements are projected to result from the proposed action:

- 1) Paperwork: This proposal contains paperwork requirements consisting of laboratory testing for

Brucella ovis in rams. The potential costs would be for the testing or retesting for *Brucella ovis* in rams entering the state, and for the testing of rams in flocks whose owners choose to certify the flock as *Brucella ovis* Free, as specified in this proposal. The testing requirements are intended to control and possibly prevent a disease of sheep that will benefit California's sheep industry, promote healthy animals, and make the industry's products marketable both nationally and internationally.

2) Record Keeping: This proposal does not contain a record keeping requirement. However, for a person or business participating in the certification process in California, the written certification issued by the Department could be considered a record. The certification is valid for one year as specified in this proposal.

Impact on Jobs/New Businesses: The Department has determined that this regulatory proposal will not have any impact on the creation of jobs or businesses or the elimination of jobs or existing businesses or the expansion of businesses in California.

Cost Impacts on Private Persons or Entities: The cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action and that are known to the Department are:

1) Paperwork: This proposal contains paperwork requirements consisting of laboratory testing for *Brucella ovis* in rams. The potential costs would be for the testing or retesting for *Brucella ovis* in rams entering the state, and for the testing of rams in flocks whose owners choose to certify the flock as *Brucella ovis* Free, as specified in this proposal. The testing requirements are intended to control and possibly prevent a disease of sheep that will benefit California's sheep industry, promote healthy animals, and make the industry's products marketable both nationally and internationally.

2) Record Keeping: This proposal does not contain a record keeping requirement. However, for a person or business participating in the certification process in California, the written certification issued by the Department could be considered a record. The certification is valid for one year as specified in this proposal.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Department has determined that the proposed regulations would affect small businesses.

CONSIDERATION OF ALTERNATIVES

The Department of Food and Agriculture must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing (if a hearing is requested from the public), or during the public comment period.

INITIAL STATEMENT OF REASONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing (if a hearing is requested) or during the public comment period upon request from the Department of Food and Agriculture, 1220 N Street, Room A-114, Sacramento, CA 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file, which is available for public inspection by contacting the persons named below.

Any person may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact persons named below or by accessing the website listed below.

CONTACT PERSONS

Inquires concerning the substance of the proposed regulations is to be addressed to the following:

Name: Anita J. Edmondson, BVM&S,
MPVM, MRCVS
Address: Department of Food and
Agriculture
Animal Health and Food Safety
Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 651-9135
Fax No.: (916) 653-4249
E-mail address: aedmondson@cdfa.ca.gov

The backup contact person is:

Name: Thami Rodgers, Associate Analyst
Address: Department of Food and
Agriculture
Animal Health and Food
Safety Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 698-3276
Fax No.: (916) 653-4249
E-mail address: trodgers@cdfa.ca.gov

Written comments, facsimiles or e-mails regarding this proposal are to be addressed to the following:

Name: Thami Rodgers, Associate Analyst
Address: Department of Food and
Agriculture
Animal Health and Food Safety
Services
1220 N Street, Room A-114
Sacramento, CA 95814
Telephone No.: (916) 698-3276
Fax No.: (916) 653-4249
E-mail address: trodgers@cdfa.ca.gov

Website Access: Materials regarding this proposal can be found at www.cdfa.ca.gov

TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE

NOTICE IS HEREBY GIVEN that the Department of Food and Agriculture amended Section 3591.12, subsection (a), of the regulations in Title 3 of the California Code of Regulations pertaining to Peach Fruit Fly Eradication Area as an emergency action that was effective on May 18, 2006. The Department proposes to continue the regulation as adopted and to complete the amendment process by submission of a Certificate of Compliance no later than September 15, 2006.

A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for

a public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the Department of Food and Agriculture, at its own motion, or at the instance of any interested person, may adopt the proposal substantially as set forth without further notice.

Notice is also given that any person interested may present statements or arguments in writing relevant to the action proposed to the agency officer named below on or before August 7, 2006.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Existing law provides that the Secretary is obligated to investigate the existence of any pest that is not generally distributed within this state and determine the probability of its spread, and the feasibility of its control or eradication (FAC Section 5321).

Existing law also provides that the Secretary may establish, maintain, and enforce quarantine, eradication, and other such regulations as he deems necessary to protect the agricultural industry from the introduction and spread of pests (Food and Agricultural Code, Sections 401, 403, 407 and 5322). Existing law also provides that eradication regulations may proclaim any portion of the State as an eradication area and set forth the boundaries, the pest, its hosts, and the methods to be used to eradicate said pest (Food and Agricultural Code Section 5761).

Section 3591.12, subsection (a), was amended and established Fresno County as an eradication area for peach fruit fly, *Bactrocera zonata*. The effect of this action was to establish authority for the State to conduct eradication activities in Fresno County. There is no existing, comparable federal regulation or statute.

COST TO LOCAL AGENCIES AND SCHOOL DISTRICTS

The Department of Food and Agriculture has determined that Section 3591.12 does not impose a mandate on local agencies or school districts and no reimbursement is required for Section 3591.19 under Section 17561 of the Government Code. The Department also has determined that no savings or increased costs to any state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

The Department has made an initial determination that the proposed actions will not affect housing costs.

EFFECT ON BUSINESSES

The Department has made an initial determination that the proposed actions will not have a significant statewide adverse economic impact directly affecting California businesses, including the ability of California businesses to compete with businesses in other states.

COST IMPACT ON AFFECTED PRIVATE PERSON OR BUSINESSES

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

ASSESSMENT

The Department has made an assessment that the proposed adoption and amendment to the regulations would not (1) create or eliminate jobs within California, (2) create new business or eliminate existing businesses within California, or (3) affect the expansion of businesses currently doing business within California.

ALTERNATIVES CONSIDERED

The Department of Food and Agriculture must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the actions are proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AUTHORITY

The Department proposes to amend Section 3591.12, subsection (a), pursuant to the authority vested by Sections 407 and 5322 of the Food and Agricultural Code.

REFERENCE

The Department proposes to amend Section 3591.12, subsection (a), to implement, interpret and make specif-

ic Sections 407, 5322, 5761, 5762 and 5763 of the Food and Agricultural Code.

EFFECT ON SMALL BUSINESS

The proposed amendment of this regulation may affect small businesses.

CONTACT

The agency officer to whom written comments and inquiries about the initial statement of reasons, proposed actions, location of the rulemaking files, and request for a public hearing may be directed to is: Stephen S. Brown, Department of Food and Agriculture, Plant Health and Pest Prevention Services, 1220 N Street, Room A-316, Sacramento, California 95814, (916) 654-1017, FAX (916) 654-1018, E-mail: sbrown@cdfa.ca.gov. In his absence, you may contact Liz Johnson at (916) 654-1017. Questions regarding the substance of the proposed regulation should be directed to Stephen S. Brown.

INTERNET ACCESS

The Department has posted the information regarding this proposed regulatory action on its Internet website (www.cdfa.ca.gov/cdfa.pendingregs).

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Department of Food and Agriculture has prepared an initial statement of reasons for the proposed actions, has available all the information upon which its proposal is based, and has available the express terms of the proposed action. A copy of the initial statement of reasons and the proposed regulations in underline and strikeout form may be obtained upon request. The location of the information on which the proposal is based may also be obtained upon request. In addition, when completed, the final statement of reasons will be available upon request. Requests should be directed to the contact named herein.

If the regulations amended by the Department differ from, but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of amendment. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency officer (contact) named herein.

**TITLE 10. DEPARTMENT OF
INSURANCE**

**NOTICE OF PROPOSED ACTION AND
NOTICE OF PUBLIC HEARING**

**MODIFIED GUARANTEED ANNUITY
REGULATIONS**

**RH-05048001
June 7, 2006**

SUBJECT OF HEARING

Notice is hereby given that a public hearing will be held regarding the adoption of amendments to California Code of Regulations (“CCR”) Title 10, Chapter 5, Subchapter 3, Article 11.2 (Separate Account or Accounts — Modified Guaranteed Annuities) sections 2534.27 (Filing and Approval of Policy Forms) and 2534.28 (Modified Guaranteed Annuity Contract Requirements) subsections (b) (Nonforfeiture Benefits) and (c). The amendment to section 2534.27 revises that section to incorporate amendments to the National Association of Insurance Commissioners (“NAIC”) Modified Guaranteed Annuity Model Regulation #255 (the “NAIC Model Regulation”). The amendments to section 2534.28 conform sections 2534.28(b) and 2534.28(c) to the NAIC Model Regulation. An additional amendment to CCR section 2534.28(b)(3) states, for purposes of clarification, that pursuant to Insurance Code section 10506.3(a), the provisions of Insurance Code Division 2, Part 2, Chapter 1, Article 3B (commencing with section 10168) regarding nonforfeiture values shall apply to nonforfeiture value calculations under the regulations, before adjustment for market value, as an absolute minimum. The proposed regulations add citations to Insurance Code sections 12921(a) and 12926 as additional authority for CCR sections 2534.27 and 2534.28.

AUTHORITY AND REFERENCE

The Insurance Commissioner proposes the adoption of amendments to Title 10, Chapter 5, Subchapter 3, Article 11.2, Modified Guaranteed Annuity Contract Requirements, sections 2534.27 (Filing and Approval of Policy Forms), 2534.28(b) (Nonforfeiture Benefits), and 2534.29(c) pursuant to the authority vested in him by Insurance Code sections 10506(h), 10506.3(a), 12921(a), and 12926. The Commissioner’s decision on the proposed amendments will implement, interpret, and make specific the provisions of Insurance Code

sections 10506(h) and 10506.3(a), both of which apply to modified guaranteed annuities.

HEARING DATE AND LOCATION

Notice is hereby given that a public hearing will be held to permit all interested persons the opportunity to present statements or arguments, orally or in writing, with respect to the proposed regulations as follows:

Date and time: **August 8, 2006
10:00 am***

Location: **Department of Insurance
Hearing Room
45 Fremont Street, 22nd Floor
San Francisco, CA 94105**

*The hearing will continue on the date noted until all testimony has been completed or 5:00 p.m., whichever is earlier.

**PRESENTATION OF WRITTEN AND/OR ORAL
COMMENTS; CONTACT PERSONS**

All persons are invited to present oral and/or written comments at the scheduled public hearing. Written comments should be addressed to the contact person:

Nancy Hom, Staff Counsel III
California Department of Insurance
45 Fremont Street, 24th Floor
San Francisco, CA 94105
Telephone: (415) 538-4144

Questions regarding procedure, the hearing, comments, or the substance of the proposed action should be addressed to the contact person listed above. If she is unavailable, inquiries may be addressed to the backup contact person:

Bruce Hinze, Staff Counsel
California Department of Insurance
45 Fremont Street, 23rd Floor
San Francisco, CA 94105
Telephone: (415) 538-4392

DEADLINE FOR WRITTEN COMMENTS

All persons are invited to submit written comments on the proposed regulations during the public comment period. **The public comment period will end at 5:00 p.m. on August 8, 2006.** All written comments, whether submitted at the hearing, or by U.S. mail, or by e-mail or facsimile, must be received by the Insurance Commissioner, c/o the contact person at the address listed above, no later than **5:00 p.m. on August 8, 2006.** Any written materials received after that time will not be considered.

COMMENTS TRANSMITTED BY
E-MAIL OR FACSIMILE

The Commissioner will accept written comments transmitted by e-mail provided they are sent to the following e-mail address: homn@insurance.ca.gov. The Commissioner will also accept written comments transmitted by facsimile provided they are sent to the attention of the contact person at the following facsimile number: (415) 904-5729. **Comments sent to other e-mail addresses or other facsimile numbers will not be accepted. Comments sent by e-mail or facsimile are subject to the 5:00 p.m. August 8, 2006 deadline for written comments set forth above.**

ACCESS TO HEARING ROOMS

The facilities to be used for the public hearing are accessible to persons with mobility impairments. Persons with sight or hearing impairments are requested to notify the contact person(s) for the hearing in order to make special arrangements, if necessary.

ADVOCACY OR WITNESS FEES

Persons or groups representing the interests of consumers may be entitled to reasonable advocacy fees, witness fees, and other reasonable expenses, in accordance with the provisions of Title 10 of the California Code of Regulations, in connection with their participation in this matter. Interested persons should contact the Office of the Public Advisor at the following address to inquire about the appropriate procedures:

California Department of Insurance
Office of the Public Advisor
300 Capitol Mall, 17th Floor
Sacramento, CA 95814
(916) 492-3559

A copy of any written materials submitted to the Public Advisor regarding this rulemaking must also be submitted to the contact person for this hearing. Please contact the Office of the Public Advisor for further information.

INFORMATIVE DIGEST

POLICY STATEMENT OVERVIEW

Existing law (CCR section 2534.27) provides that all modified guaranteed annuity policy forms shall be submitted to the Insurance Commissioner prior to delivery or issuance for delivery in California, and no such form shall be delivered or issued for delivery in California

until the use of the form has been approved in writing by the Insurance Commissioner.

Existing law requires insurers to make two calculations for the nonforfeiture benefits on cessation of premiums in modified guaranteed annuity policies. The nonforfeiture calculations must be included when the forms are filed with the Insurance Commissioner for review and approval. The requirements for the first calculation are set forth in CCR Title 10, Chapter 5, Subchapter 3, Article 11.2, section 2534.20 et seq. The provisions of the CCR sections are derived from the NAIC's Modified Guaranteed Annuity Model Regulation #255. The second calculation is required by Insurance Code section 10506.3(a), which states in part, "Modified guaranteed annuities shall be subject to Article 3b (commencing with Section 10168) of Chapter 1 of Part 2 of Division 2 with regard to nonforfeiture values computed under the terms of the annuity but excluding from the computation the effect of market-value adjustment factors." In other words, insurers must also complete the minimum value nonforfeiture calculations required by Insurance Code sections 10168 et seq. in their modified guaranteed annuity filings as their second calculation for nonforfeiture amounts, before taking into account market value adjustment factors.

The NAIC is an organization comprised of the chief insurance regulatory officials from all 50 states, the District of Columbia, and five U.S. territories. One of the NAIC's many activities is to assist regulators with financial and market conduct regulation by fostering the development of NAIC model regulations. Individual states incorporate provisions of NAIC model regulations into their own laws to promote uniformity between the states and to incorporate new developments in insurance industry regulation into their own regulations.

The NAIC revised sections 6 and 7 of its NAIC Model Regulation in March, 2006. California Code of Regulations Sections 2534.27 and 2534.28 are based on the NAIC's Model Regulation sections 6 and 7. By and large the proposed amendments to CCR sections 2534.27 and 2534.28 are identical to or closely parallel to the revisions made by the NAIC to NAIC Model Regulation sections 6 and 7. The NAIC Model Regulations and the Department of Insurance's regulations must be updated from time to time to reflect advances in regulatory law as well as new measures to protect consumers. The changes being made also make the requirements in the regulations simpler and easier for the insurers and the regulators to implement. The proposed amendments will achieve these objectives.

In addition to the obvious benefits of reflecting advances in regulatory law, new measures to protect consumers, and simplified standards, the proposed amendments will promote uniformity of standards among dif-

ferent states. A number of other states have adopted older versions of the NAIC Model Regulation, and it is likely that some or all of them will eventually adopt the NAIC's 2006 revisions to the Model Regulation as well. Both insurers and consumers benefit when administrative costs related to compliance with multiple, inconsistent regulatory requirements imposed by different states are reduced. The proposed regulations tend to serve this purpose by ensuring that California's regulatory requirements in this area are as consistent with those of other states as is possible under California law. Everyone stands to benefit when insurers, operating in compliance with California law, are able to devote additional resources — resources which would otherwise be expended satisfying multiple, inconsistent regulatory regimes — to improving their financial stability or providing better products to consumers. The proposed regulations are reasonably necessary to the degree to which they help to achieve this goal.

The Commissioner also proposes amending CCR section 2534.28(b)(3) to include a statement that, in addition to the requirements in the regulations, that pursuant to Insurance Code section 10506.3(a) the nonforfeiture requirements in Insurance Code section 10168 et seq. also apply to modified guaranteed annuity filings as an absolute minimum, before adjustment for market value. This clarifies that the nonforfeiture calculation requirements set forth in the Insurance Code are in addition to, and not in place of, the nonforfeiture calculation requirements set forth in the regulations. This is reasonably necessary to eliminate confusion and to inform insurers that, in California, they must make two calculations for the nonforfeiture benefits on cessation of premiums in modified guaranteed annuity policies.

The proposed amendments to CCR sections 2534.27 and 2534.28 implement, interpret, and make specific the requirements of Insurance Code sections 10506(h) and 10506.3(a) as they apply to modified guaranteed annuities. The overall objective is to facilitate and streamline enforcement of California's minimum nonforfeiture amount calculation requirements while also promoting uniformity with NAIC standards.

SUMMARY OF EXISTING LAW; EFFECT OF PROPOSED ACTION

CCR section 2534.27. Filing and Approval of Policy Forms.

CCR section 2534.27. NAIC Model Regulation Section 6 states in part that the filing requirements applicable to modified guaranteed annuities shall be those filing requirements otherwise applicable under existing statutes and regulations of the state with respect to individual and group life insurance and annuity contract

form filings, to the extent appropriate. Existing CCR section 2534.27 is California's state-specific version of this portion of section 6 of the NAIC Model Regulation. It implements the general filing requirements of NAIC Model Regulation Section 6 in a state-specific manner.

The NAIC's current version of Section 6 also states: "Filings shall include a demonstration in a form satisfactory to the commissioner that the nonforfeiture provisions of the contracts comply with Section 7B of this regulation, as well as a certification by a member of the American Academy of Actuaries as to the compliance with Section 7B." This language is not a part of the existing CCR section 2534.27.

The portion of Section 6 which requires filings to include a demonstration was not included in CCR section 2534.27 when that section was originally adopted. Even though the existing CCR section 2534.27 does not require that a demonstration be filed, most insurers include a demonstration of their nonforfeiture calculations with their filings when the filings are made with the California Department of Insurance. The demonstration helps the Department to determine whether the company's nonforfeiture calculations comply with existing law. By including the demonstration requirement in section 2534.27, the regulation will ensure that the requirement applies uniformly to every filer. The requirement itself will help to ensure that the nonforfeiture calculations upon cessation of premiums filed by the companies comply with existing law.

The portion of Section 6 which requires a certification by a member of the American Academy of Actuaries was added in 2006. Without this new provision, anyone can certify that the filing complies with applicable requirements, whether they are qualified to do so or not. The new provision requiring certification by a member of the American Academy of Actuaries ensures that the filing must be certified by someone who has had extensive actuarial education and who is subject to professional standards of practice. This requirement helps to ensure that the calculations supplied to the regulator are thorough, accurate, and in compliance with applicable requirements.

The amendments to CCR section 2534.27 incorporate the demonstration and certification language of NAIC Model Regulation Section 6 exactly, gaining the benefits of uniformity discussed earlier in this Notice. The only difference between the demonstration and certification language of Section 6 and the language now being added to CCR section 2534.27 is that instead of citing to "Section 7B" of the NAIC Model Regulation, CCR 2534.27 cites to CCR section 2534.28(b), which is the California counterpart to NAIC Model Regulation Section 7B. The change in the citation is reasonably necessary because a citation to "Section 7B" in CCR section 2534.27 would be unclear and confusing.

Authority. The existing CCR section 2534.27 cites Insurance Code sections 10506(h) and 10506.3(a) as authority for the section. The proposed regulations add Insurance Code sections 12921(a) and 12926 as additional authority citations for this section, to clarify that the section is adopted under the Insurance Commissioner's more general authority as well as the more specific authority of sections 10506(h) and 10506.3(a).

CCR section 2534.28. Modified Guaranteed Annuity Contract Requirements.

CCR section 2534.28(b)(2)(B). Existing CCR section 2534.28(b)(2)(B) states in part: "The contract may provide that the insurer may defer payment of such cash surrender benefit for a period of six months after demand." This language is essentially the same as language in NAIC Model Regulation Section 7B.(2)(b) which was deleted earlier this year. The NAIC replaced the deleted language with the following: "The company may reserve the right to defer the payment of the cash surrender benefit for a period not to exceed six (6) months after demand therefore with surrender of the contract after making written request and receiving written approval of the commissioner. The request shall address the necessity and equitability to all policyholders of the deferral." The Project History for the NAIC Model Regulation states that the new language came directly from the Standard Nonforfeiture Law for Individual Deferred Annuities, and that it was included in the NAIC Model Regulation to achieve consistency with revisions to the Standard Nonforfeiture Law for Individual Deferred Annuities.

The amended CCR section 2534.28(b)(2)(B) deletes the language that the NAIC deleted and replaces it with the new NAIC language word-for-word, except that it corrects a misspelling by substituting "therefor" for "therefore." These changes amend CCR section 2534.28(b)(2)(B) to make it consistent with the current NAIC Model Regulation, the NAIC Standard Nonforfeiture Law for Individual Deferred Annuities Model #805, and Insurance Code section 10168.1(b) of California's Standard Nonforfeiture Law for Individual Deferred Annuities. This revision achieves uniformity with these other widely used regulatory standards, and uniformity in generally applicable standards is desirable for the reasons stated above. In addition, the substance of the revision favors consumers. The language being deleted from CCR section 2534.28(b)(2)(B) allowed insurers to defer payment of the cash surrender value of a modified guaranteed annuity for six months. The new language allows such deferrals "for a period not to exceed six (6) months," a wording which emphasizes that distributions to the contractholder may be made in less than six months. In addition, the new language makes the right to defer payment contingent upon the insurer applying for and receiving written ap-

proval for the deferral from the Insurance Commissioner, after demonstrating that the deferral is necessary and equitable to all policyholders. This is a new requirement intended to prevent insurers from arbitrarily withholding payment.

Existing CCR section 2534.28(b)(2)(B) is amended to change the citation to "Paragraph (6)" to a citation to "Paragraph (8)." This change is necessary because the existing paragraph (6) in section 2534.28(b) is being renumbered as paragraph (8). References to the old paragraph (6) must be renumbered to reflect this change, to prevent confusion and to avoid changing the substance of the cross-reference within the regulations.

CCR section 2534.28(b)(3). Proposed CCR section 2534.28(b)(3) is amended. The first amendment is the insertion of the provision stating that, pursuant to Insurance Code section 10506.3(a), the provisions of Insurance Code Article 3B of Chapter 1 of Part 2 of Division 2 with regard to nonforfeiture values shall apply to the Unadjusted Minimum Nonforfeiture Amount, as an absolute minimum. The Unadjusted Minimum Nonforfeiture Amount is defined in the existing regulation. This new provision alerts the reader to a significant difference between existing California law and NAIC Model Regulation Section 7B.(3), on which CCR section 2534.28(b)(3) is based. Under California law, the nonforfeiture calculation requirements set forth in the Insurance Code, and made applicable to modified guaranteed annuities by section 10506.3(a), are in addition to the nonforfeiture calculation requirements set forth in the regulations. To our knowledge, the NAIC Model Regulation does not have a provision which would make the equivalent of California's statutory nonforfeiture law applicable to modified guaranteed annuities. To eliminate confusion on this issue, the regulation has been amended to add the language referencing Insurance Code section 10506.3(a), so that it is clear that under California law the statutory requirements apply as an absolute minimum, before adjustment for market value, in addition to the requirements in the regulations. In other words, under California law, when insurers make their form filings with the Insurance Commissioner they must make two calculations for the nonforfeiture amounts in modified guaranteed annuity policy forms rather than just one.

Existing CCR section 2534.28(b)(3) has also been amended as follows: the words "percentages of" and "percentage of" have been deleted, and the citation to "Paragraph (4)" has been changed to a citation to "Paragraph (6)." These changes to CCR section 2534.28(b)(3) conform section 2534.28(b)(3) to the most recent version of NAIC Model Regulation Section 7B.(3), on which section 2534.28(b)(3) is based. In addition to making the revised regulation clearer, making the regulation consistent with the NAIC Model

Regulation on which it is based reduces insurers' administrative costs related to compliance with multiple regulatory requirements. If CCR section 2534.28(b)(3) is not amended to conform to the NAIC Model Regulation, California will have an increasingly out-of-date and inconsistent calculation requirement for its form filings, while other states will eventually adopt and follow the newest version of the NAIC Model Regulation. California saves insurers money and promotes more uniform regulatory standards by revising CCR 2534.28(b)(3) to conform it to the most recent version of the NAIC Model Regulation.

The citation in existing CCR section 2534.28(b)(3) to "Section 2534.22(d)" is a typographical error: no such subsection exists. To eliminate confusion, this error has been corrected by the amendment to CCR section 2534.28(b)(3) which deletes the citation to "2534.22(d)" and inserts a citation to "2534.21," which is the correct citation, and the corrected citation corresponds to the equivalent citation in the NAIC Model Regulation.

Existing CCR section 2534.28(b)(3) subparagraphs (A), (B), (C) (with subparts), and (D) have been changed. Subparagraph (A) is deleted in its present form, but the language of subparagraph (A) has been retained and labeled as a new subparagraph (A), with the addition of a requirement that the withdrawal amount be increased by interest credits. This provision clarifies that the insurer may increase the amount the contractholder has taken out of his or her account, either as a withdrawal or partial surrender, to add the interest that the insurer is charging the contractholder to the amount taken out. This change reflects industry practice and conforms section 2534.28(b)(3)(A) to the NAIC Model Regulation.

Existing CCR section 2534.28(b)(3)(B) has been rewritten to conform to the NAIC Model Regulation subparagraph (D). The existing section 2534.28(b)(3)(B) is therefore deleted and replaced with a new subparagraph (D), which sets forth essentially the same requirement but which uses language that is the same as in the NAIC Model Regulation. The NAIC language is clearer than the existing regulation language, because it explains that the amount of indebtedness referred to is the amount of indebtedness "to the company" on the contract.

Existing CCR section 2534.28(b)(3)(C) is deleted and replaced with a new paragraph (B). The existing paragraph (C) requires insurers to review records for each past year in question to determine whether the two percent contract value less the amount of any annual contract charges deducted from any gross considerations credited to the contract during that contract year would be less than \$30.00. This requires the insurer to review a certain amount of historical data on each con-

tract to determine an amount that may be less than \$30.00. The new paragraph (B) sets forth a streamlined way of determining the annual contract charge, by simply stating it as a flat \$50 charge, increased by interest credits. The new method does not require insurers to review as much data in order to make the calculation. It is easy for all parties to understand, and it is easy for regulators to verify. The increase in the amount is due to the passage of time and change in financial conditions since CCR section 2534.28(b)(3) became operative over fourteen years ago. It is also offset somewhat by the deletion of existing paragraph (D), which allows the insurer to impose a \$10 transaction charge for each transfer to another investment division within the same contract. The deletion of existing paragraph (D) and the other changes described above conform CCR section 2534.29(b)(3) to the NAIC Model Regulation, with all of the benefits that flow from that standardization. These changes also make the proposed regulation consistent with Insurance Code section 10168.25 of California's Standard Nonforfeiture Law for Individual Deferred Annuities.

CCR section 2534.28(b)(3) is amended by adding a new paragraph (C), which provides that the insurer may reduce a nonforfeiture amount by any premium tax it has paid for the contractholder's contract, increased by interest credits. This change conforms section 2534.28(b)(3) to the NAIC Model Regulation. This change also makes the proposed regulation consistent with Insurance Code section 10168.25 of California's Standard Nonforfeiture Law for Individual Deferred Annuities. The amended CCR section 2534.28(b)(3) now includes the text of the drafting note from the NAIC Model Regulation concerning paragraph (C). The drafting note has been included as part of the text of CCR 2534.28(b)(3) because it clarifies the circumstances under which the premium tax credit referred to in paragraph (C) is permitted.

The citation to "Section 4" in subparagraphs (A), (B), and (C) of the NAIC Model Regulation is changed in CCR section 2534.28(b)(3) subparagraphs (A), (B), and (C) to be a citation to CCR Section "2534.21." The change in the citation directs the reader to the CCR counterpart to the NAIC Model Regulation's "Section 4." A citation to "Section 4" in the context of CCR section 2534.28(b)(3) would be unclear and confusing.

The benefits of amending CCR section 2534.28(b)(3) to conform it to the NAIC Model are stated above. There is also an additional benefit in conforming the regulation to the NAIC Model Regulation. The relevant provisions of the NAIC Model are generally consistent with the Standard Nonforfeiture Law for Individual Deferred Annuities. California adopted its version of the Standard Nonforfeiture Law for Individual Deferred Annuities as Insurance Code section 10168 et seq.

Products subject to the NAIC Model Regulation can have many similarities to products subject to the Standard Nonforfeiture Law for Individual Deferred Annuities. It makes sense for products with certain similarities to be governed by statutes and regulations which reflect those similarities.

Existing CCR section 2534.28(b)(3) contains two unnumbered subparagraphs. These two unnumbered paragraphs are now numbered as subparagraphs “(4)” and “(5)” in the amended regulations. The insertion of paragraph number “(4)” at the beginning of the first unnumbered paragraph and the insertion of paragraph number “(5)” at the beginning of the second unnumbered paragraph will make it easier to identify each paragraph precisely and make the format of the regulation more uniform.

CCR section 2534.28(b)(4). Existing CCR section 2534.28(b)(4) is being deleted and replaced by a new section 2534.28(b)(6). Existing section 2534.28(b)(4) is the same as the NAIC Model Regulation Section 7B.(4) which was deleted in its entirety in the recently revised NAIC Model Regulation. The language being added to CCR section 2534.28(b) as the new section 2534.28(b)(6) is exactly the same as the language the NAIC added to its revised Model Regulation as Section 7B.(6) (with the exception of the citation to “Paragraph 3” of the NAIC Model, which, for clarity and to retain the original meaning, in the California version is a citation to Paragraph 3’s California counterpart, “subsection 2534.28(b)(3)”).

The existing CCR section 2534.28(b)(4) sets forth a rather involved method for calculating the percentages of net considerations used to define the minimum nonforfeiture amount. The calculation must take into account annual charges of \$30 or \$75 (depending upon the type of contract), collection charges of \$1.25, charges for premium taxes, and percentages of net considerations which vary from 65% to 90% depending upon the type of contract and contract year in question. The contract charges must be multiplied by the ratio of the Consumer Price Index for June of the calendar year preceding the date of filing to the Consumer Price Index for June 1979.

These complicated calculation requirements are replaced by CCR section 2534.28(b)(6), which provides that the net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to 87.5% of the gross considerations credited to the contract during that contract year. The new requirement is a simple percentage calculation. It does not require taking into account various amounts of money, some as small as \$1.25. It is easy for all parties to understand, and it is easy for companies to perform and for regulators to verify. In addition, it is consistent with the nonforfeiture calculation requirements of the

Model Standard Nonforfeiture Law for Individual Deferred Annuities, and with Insurance Code section 10168.25 of California’s Standard Nonforfeiture Law for Individual Deferred Annuities.

The changes to CCR section 2534.28(b)(4) are necessary to conform the minimum nonforfeiture amount calculation to the calculation in the NAIC Model Regulation. As explained above, making the regulation consistent with the NAIC Model Regulation reduces administrative costs, prevents increasingly out-of-date and inconsistent form filing requirements, saves money, promotes more uniform regulatory standards, reflects changing conditions and simplifies application of the regulation for all concerned.

CCR section 2534.28(b)(6). Existing CCR section 2534.28(b)(6), renumbered as CCR section 2534.28(b)(8), contains a typographical error: the existing text states that “the cash surrender benefit. . . shall not be less than the Minimum Nonforfeiture Amount. . .” The regulation has been amended to delete the word “that” and insert the word “than” in its place. This corrects the typographical error and clarifies the text of the regulation.

CCR section 2534.28(b)(5), (6), (7), (8), and (9). Existing CCR subsections 2534.28(b)(5), (6), (7), (8), and (9) have been renumbered as subsections (7), (8), (9), (10), and (11), respectively, in order to keep the numerical organization of section 2534.28(b) internally consistent and to prevent confusion.

CCR section 2534.28(b)(8). Existing CCR section 2534.28(b)(8), renumbered as CCR section 2534.28(b)(10), has been amended by the insertion of a comma in subsections (A) and (B) immediately after the first word “If” in each subsection. The insertion of the two commas conforms the subsections to the punctuation in the NAIC Model Regulation on which they are based, without changing the substance or meaning of either subsection.

CCR section 2534.28(b)(9). The last sentence of existing CCR section 2534.28(b)(9) reads as follows: “Notwithstanding the provisions of Subparagraph 2534.28(b) additional benefits payable under the following conditions.” The proposed regulations amend CCR section 2534.28(b)(9) by inserting the word “are” between the words “benefits” and “payable” in order to clarify the sentence and have it read properly, and renumbers the section as CCR section 2534.28(b)(11). The omission of the word “are” in the existing regulation was an error.

CCR section 2534.28(b)(10). Existing CCR section 2534.28(b)(10) refers to the annual contract charge, the collection charge of \$1.25 per collection, the transaction charge of \$10, the single consideration contract charge of \$75, and adjustments based on the Consumer Price Index, the same items that are currently contained

in CCR section 2534.28(b)(4) and which are being deleted as explained above. It makes no sense to delete the standards set forth in existing CCR section 2534.28(b)(4) and replace them with the standard in the new CCR section 2534.28(b)(6) and yet retain the old standards of CCR section 2534.28(b)(10), which parallel the deleted provisions of CCR section 2534.28(b)(4). In order to remain consistent with the new CCR section 2534.28(b)(6) and the NAIC Model Regulation it is necessary to delete CCR section 2534.28(b)(10), for the same reasons CCR section 2534.28(b)(4) was deleted and replaced with CCR section 2534.28(b)(6).

CCR section 2534.28(c). Existing CCR section 2534.28(c) has been amended to add a title, "The Application." This change makes section 2534.28(c) now entirely the same as NAIC Model Regulation section 7C, on which section 2534.28(c) is based. In addition, existing sections 2534.28(a) and 2534.28(b) both have titles, but 2534.28(c) does not. The amendment adding a title to 2534.28(c) makes it consistent with the format of sections 2534.28(a) and 2534.28(b) without changing the meaning or substance of the paragraph.

Authority. The existing CCR section 2534.28 cites Insurance Code sections 10506(h) and 10506.3(a) as authority for the section. The proposed regulations add Insurance Code sections 12921(a) and 12926 as additional authority citations for this section, to clarify that the section is adopted under the Insurance Commissioner's more general authority as well as the more specific authority of sections 10506(h) and 10506.3(a).

MANDATES ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The proposed regulations do not impose any mandate on local agencies or school districts. There are no costs to local agencies or school districts for which Part 7 (commencing with section 17500) of Division 4 of the Government Code would require reimbursement.

COST OR SAVINGS TO ANY STATE OR LOCAL AGENCY OR SCHOOL DISTRICT OR IN FEDERAL FUNDING

The Commissioner has determined that the proposed regulations will result in no cost or savings to any state agency, no cost to any local agency or school district that is required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of the Government Code, no other nondiscretionary cost or savings imposed on local agencies, and no cost or savings in federal funding to the State.

ECONOMIC IMPACT ON BUSINESSES AND THE ABILITY OF CALIFORNIA BUSINESSES TO COMPETE

The Commissioner has made an initial determination that the proposed regulations may have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The types of businesses that may be affected are insurance companies. Insurance companies may incur some costs as a result of changing the nonforfeiture calculations in modified guaranteed annuity form filings made after the effective date of the regulations, so that the calculations meet the requirements of the regulations. They may also incur some expenses related to reprinting forms. The Commissioner has considered performance standards, but the Commissioner has identified no performance standards that would be as effective as the proposed regulations to update the existing regulations, to amend the existing regulations to conform them to the revised NAIC Model Regulation, or to enforce the statutes that form the basis for the proposed regulations. The Commissioner has not considered other proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- (i) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses;
- (ii) Consolidation or simplification of compliance and reporting requirements for businesses;
- (iii) The use of performance standards rather than prescriptive standards;
- (iv) Exemption or partial exemption from the regulatory requirements for businesses.

POTENTIAL COST IMPACT ON PRIVATE PERSONS OR ENTITIES/BUSINESSES

The Commissioner has determined that for insurance companies subject to the proposed regulations there is likely to be some cost impact, although it will most likely be minimal. The cost impact would be the cost of changing the nonforfeiture calculations in future modified guaranteed annuity form filings so that the calculations meet the requirements of the regulations. Insurers may also incur some expenses related to reprinting forms. However, insurers would incur greater expense if the existing CCR sections 2534.27 and 2534.28 are not revised to comply with the most recent NAIC Model Regulation, because while other states would be adopting and following the newest version of the NAIC Model Regulation, California would still be requiring an in-

creasingly out-of-date and inconsistent calculation in its form filings. In the long run, by amending California's regulations to keep them current with changes to the NAIC Model Regulation on which they are based, California is saving insurers money by promoting more uniform requirements.

Consumers benefit from stricter filing requirements and the provisions limiting insurers' ability to defer payment of cash surrender value. Whether an insurer or a consumer benefits financially from the revised non-forfeiture calculation depends on the circumstances of each annuity.

To the extent the proposed regulations reference existing California statutory requirements for modified guaranteed annuity calculations, the proposed regulations merely clarify existing legal requirements and do not create new costs or expenses.

FINDING OF NECESSITY

The Commissioner finds that it is necessary for the welfare of the people of the State that the regulations apply to businesses.

EFFECT ON JOBS AND BUSINESSES IN CALIFORNIA

The Commissioner is required to assess any impact the regulations may have on the creation or elimination of jobs within the State of California, the creation of new businesses or the elimination of existing businesses within the State of California, and the expansion of businesses currently doing business within the State. The Commissioner does not foresee that the proposed regulations will have an impact on any of the above but invites interested parties to comment on this issue.

IMPACT ON HOUSING COSTS

The matters proposed herein will have no significant effect on housing costs.

ALTERNATIVES

The Commissioner must determine that no reasonable alternative considered by the Commissioner or that has otherwise been identified and brought to the attention of the Commissioner would be more effective in carrying out the purposes for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed regulations. The Commissioner invites public comment on alternatives to the regulations.

IMPACT ON SMALL BUSINESS

The Commissioner has determined that the proposed regulations will not affect small businesses. The proposed regulations affect insurers. Pursuant to Government Code section 11342.610(b)(2), insurers are not small businesses.

COMPARABLE FEDERAL LAW

There are no existing federal regulations or statutes comparable to the proposed regulations.

TEXT OF REGULATIONS AND INITIAL STATEMENT OF REASONS

The Department has prepared an Initial Statement of Reasons that sets forth the reasons for the proposed regulations. Upon request, the Initial Statement of Reasons will be made available for inspection and copying. Requests for the Initial Statement of Reasons or questions regarding this proceeding should be directed to the contact person listed above. Upon request, the Final Statement of Reasons will be made available for inspection and copying once it has been prepared. Requests for the Final Statement of Reasons should be directed to the contact person listed above.

The file for this proceeding, which includes a copy of the proposed regulations, the Initial Statement of Reasons, the information upon which the proposed action is based, and any supplemental information, including any reports, documentation and other materials related to the proposed action that is contained in the rulemaking file, is available for inspection and copying by prior appointment at 45 Fremont Street, 24th Floor, San Francisco, California 94105, between the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday.

AUTOMATIC MAILING

A copy of the proposed regulations and this Notice (including the Informative Digest, which contains the general substance of the proposed regulations) will automatically be sent to all persons on the Insurance Commissioner's mailing list.

WEBSITE POSTINGS

Documents concerning this proceeding will be available on the Department's website. The documents shall include the proposed regulations, the Notice of Hearing and Informative Digest, the Initial Statement of Reasons, and, when it has been prepared, the Final Statement of Reasons. To access documents concerning this proceeding, go to <http://www.insurance.ca.gov>. Find

the link "QUICK LINKS" in blue in the middle of the screen. Click on the link for "Legal Information" under the "QUICK LINKS" link, then click on the "Proposed Regulations" link. Click on the redirection link and when the search field appears, enter 'RH05048001' (the Department's regulation file number for these regulations).

MODIFIED LANGUAGE

If the regulations adopted by the Department differ from those which have originally been made available but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Interested persons should request a copy of these regulations prior to adoption from the contact person listed above.

TITLE 16. BOARD FOR GEOLOGISTS AND GEOPHYSICISTS

NOTICE IS HEREBY GIVEN that the Board for Geologists and Geophysicists is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Hilton Los Angeles Airport, 5711 West Century Blvd. Los Angeles, California, at 10:00 a.m., on August 11, 2006. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board for Geologists and Geophysicists at its office not later than 5:00 p.m. on August 10, 2006 or must be received by the Board for Geologists and Geophysicists at the hearing. The Board for Geologists and Geophysicists, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Section 7818 and 7860 of the Business and Professions Code, and to implement, interpret or make specific Section 7860 of said Code, the Board for Geologists and Geophysicists is considering changes to Division 29 of Title 16 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Board proposes to amend Section 3065, Title 16, Division 29 of the California Code of Regulations, "Professional Standards."

Business and Professions Code section 7860 specifies that the board may publicly reprove, suspend for a period not to exceed two years, or revoke the certificate of any professional geologist or professional geophysicist or publicly reprove or revoke the temporary authorization granted to any person pursuant to section 7848 or 7848.1 of the Business and Professions Code on the grounds that in the course of his or her practice as a geologist or geophysicist violates professional standards adopted by the board.

Current regulations set professional standards with regard to competency, misrepresentation, conflict of interest, use of confidential information, and required notifications.

This proposal would specify the circumstances under which a violation of professional conduct in the practice of professional geology or geophysics is grounds for disciplinary action. In addition, this proposal would include sections outlining requirements for compliance with applicable laws and document submittal.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact:

X The board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses:

The Board for Geologists and Geophysicists has determined that this regulatory proposal will not have

_____ a significant

X any

impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board for Geologists and Geophysicists is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board for Geologists and Geophysicists has determined that the proposed regulations would not affect small businesses as only the individuals in violation of the Code of Professional Conduct would be subject to disciplinary action.

CONSIDERATION OF ALTERNATIVES

The Board for Geologists and Geophysicists must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

**INITIAL STATEMENT OF REASONS
AND INFORMATION**

The Board for Geologists and Geophysicists has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board for Geologists and Geophysicists at 2535 Capitol Oaks Drive, Suite 300A, Sacramento, California 95833-2926.

**AVAILABILITY AND LOCATION OF THE
FINAL STATEMENT OF REASONS AND
RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which

is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name: Paul Sweeney, Executive Officer
Address: 2535 Capitol Oaks Drive,
Suite 300A
Sacramento, CA 95833-2926
Telephone No.: (916) 263-2113
Fax No.: (916) 263-2099
E-mail Address: geology@dca.ca.gov

The backup contact person is:

Name: Christine Doering
Address: 2535 Capitol Oaks Drive,
Suite 300A
Sacramento, CA 95833-2926
Telephone No.: (916) 263-2113
Fax No.: (916) 263-2099
E-mail Address: geology@dca.ca.gov

Website Access: Materials regarding this proposal can be found at www.geology.ca.gov.

**TITLE 19. OFFICE OF THE STATE
FIRE MARSHALL**

NOTICE OF PROPOSED RULEMAKING

The State Fire Marshal proposes to adopt the proposed regulations described below after considering all comments, objections or recommendations regarding the proposed action.

PUBLIC HEARING

The State Fire Marshal has not scheduled a public hearing on this proposed action. However, The State Fire Marshal will hold a public hearing if a written request is received from any interested party or their authorized representative no later than 15 days before the end of the 45-day comment period.

WRITTEN COMMENT PERIOD

The State Fire Marshal will accept written comments regarding this regulatory action until 5 pm on August 7, 2006.

Send mailed comments to:

OFFICE OF THE STATE FIRE MARSHAL
Attention: Kevin Reinertson
P.O. Box 944246
Sacramento, CA 94244-2460

Or by e-mail to

ProposedNFPA25Adoption@fire.ca.gov

Or you may fax your comments to:

Attention: Kevin Reinertson
(916) 327-4998

AUTHORITY & REFERENCE

The State Fire Marshal is proposing this regulatory action pursuant to Health and Safety Code Sections: 13195, 13196.5, 13197 with reference to 13195, Health and Safety Code.

INFORMATIVE DIGEST — POLICY STATEMENT OVERVIEW

The State Fire Marshal proposes to: 1) Incorporate by reference NFPA 25 Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems, 2002 ed. 2) Amend and/or repeal sections in NFPA 25 to correlate with the requirements in Title 19. 3) Adopt, amend and/or repeal sections in Title 19 CCR, Chapter 5. Automatic Fire Extinguishing Systems to correlate with the requirements in NFPA 25.

Current Law requires the State Fire Marshal to establish and control a program for servicing, testing, and maintaining all automatic fire extinguishing systems and to establish minimum frequencies of service, inspection and testing for the various types of automatic fire extinguishing systems. Automatic fire extinguishing systems include, but are not limited to fire sprinkler systems, engineered and pre-engineered fixed extinguishing systems, standpipe systems, and alarm and supervisory equipment attached to those systems.

The currently adopted State Fire Marshal regulations for the Inspection, Testing, and Maintenance of automatic fire extinguishing systems has changed little since they were first enacted in 1983. The current proposal is to adopt the nationally recognized standard (NFPA 25, 2002 Edition — Standard for the Inspection, Testing, and Maintenance of water-Based Fire Protection Systems) and to amend it to meet the needs of California. In addition, this proposal also adopts, amends and/or repeals various sections in Chapter 5, Automatic Fire Extinguishing Systems, Title 19 CCR so that it does not duplicate the requirements contained in NFPA 25, 2002 Edition.

The State Fire Marshal utilized the Automatic Fire Extinguisher Advisory Committee to make recommendations regarding revising these regulations.

Proposed Title 19 Modified Sections

Section 901 is being proposed to be amended to include the incorporation by reference of NFPA 25, Annexes A, C, D, and E, with California amendments.

Sections 902 is being proposed to be amended to reflect the inclusion of systems defined as automatic fire extinguishing systems.

Section 902.4 is being proposed to be amended to include the tags and to add Clean Agent Systems to the examples given.

Section 902.9 is being proposed to be adopted to reflect the definition of inspection as it appears in NFPA 25

Section 902.11 is being proposed to be amended to clarify the definitions of license and licensee.

Section 902.12 is being proposed to be amended to reflect the definition of maintenance as it appears in NFPA 25.

Section 902.15 is being proposed to be amended to add clean agent systems to the examples given.

Section 902.18 is being proposed to be amended to change the definition of service necessitated by the incorporation of NFPA 25.

Section 902.19 is being proposed to be adopted to add the definition of testing to reflect changes necessitated by the incorporation of NFPA 25.

Throughout Sections 904 and 905 references to “service” is being proposed to be changed to “inspection, testing and/or maintenance” in order to be consistent with NFPA 25.

Sections 904 and 904.1 are being proposed to be amended to reflect changes necessitated by the incorporation of NFPA 25.

Section 904.2 is being proposed to be amended to reflect changes necessitated by the incorporation of NFPA 25 and to require the contractor to notify both the building owner and the local fire authority of the completion of the testing and maintenance.

Sections 904.3, 904.4, 904.5 and 904.6 are being proposed to be repealed because those requirements are addressed in NFPA 25.

Section 904.7 is being proposed to be amended to reflect changes necessitated by the incorporation of NFPA 25.

Section 905 is being proposed to be amended to reference a C-16 license.

Section 905.2 is being proposed to be reformatted into a table format.

The title of Article 6 is being proposed to be amended to include forms and tags.

Section 906 is being proposed to be amended to clarify the general label and tag requirements.

Section 906.1 is being proposed to be adopted to address labeling requirements of water-based fire protection systems.

Section 906.2 is being proposed to be adopted to address the tagging requirements of engineered and pre-engineered fixed systems.

Section 906.3 is being proposed to be adopted to include reference to the reporting forms required for sprinkler systems, standpipe and hose systems, private fire service mains, fire pumps, water storage tanks, water spray fixed systems and foam-water sprinkler systems.

Proposed NFPA Modified Sections

Amendments, additions or deletions being proposed to NFPA 25 are hereby made to either reflect more restrictive requirement currently in Title 19, address items which are not specifically addressed in either NFPA 25 or Title 19, or specifically addressed in NFPA 25 but for which no substantiating data could be found.

The following Sections of NFPA 25, 2002 edition are being proposed to be amended:

Notice Section is being proposed to be amended to reflect an error in the referenced annex.

Section 2.2 is being proposed to be amended to reflect current Part 2, Title 24 requirements.

Section 3.3.19 is being proposed to be deleted in order to correlate to the definition of inspection being added to Title 19.

Section 3.3.22 is being proposed to be deleted in order to correlate to the definition of maintenance being added to Title 19.

Section 3.3.36 is being proposed to be deleted in order to correlate to the definition of testing being added to Title 19.

Sections 3.3.20, 4.1.4.1, 4.1.6, 4.2, 5.2.1.1, 5.2.1.1.4, 5.2.1.3, 5.2.2, 5.2.2.3, 5.2.3, 5.2.3.3, 5.2.4.1, 5.2.4.2, 5.2.4.3, 5.3.3.1, 5.3.3.2, 6.1.2, 6.2.1, 6.3.1.3, 8.3.4.3, 12.2.6.1, 12.2.7, 12.3.2.1, 12.3.2.1.1, 12.3.3.5.1, 12.4.1.1, 12.4.3.1.3, 12.4.3.1.4, 12.4.3.1.5, 12.4.3.1.6, 12.4.3.2.1, 12.4.3.2.10, 12.4.4.1.4, 12.4.4.2.1, 12.4.4.2.4, 12.4.4.2.6, 12.6.1.1, 12.6.1.1.1, 12.6.1.2, 12.6.1.2.1, A.5.2.1.1.4, A.5.2.2.3, and A.5.2.3.3 are being proposed to be amended and replace the existing corresponding section to reflect current Title 19 requirements.

Sections 4.1.4, 4.3.5 and A.4.1.4 are being proposed to be deleted because these requirements are addressed in Title 19.

Tables 5.1, 6.1, 9.1, 10.1, 11.1, and 12.1 are being proposed to be amended and replace the existing corresponding table to reflect current Title 19 requirements.

Sections 3.6.7, 5.3.3.6, 6.3.1.3.1.1, 6.3.1.3.1.2, 6.3.1.6, 6.3.1.7, 6.3.1.7.1, 9.3.7, 12.7.4, and A.12.7.4 are being proposed to be adopted to reflect current Title 19 requirements.

Tables 6.3.1.6 and 6.3.1.7 are being proposed to be adopted to reflect current Title 19 requirements.

DISCLOSURES REGARDING THE PROPOSED ACTION

The State Fire Marshal has made the following determinations:

1. Mandate on local agencies and school districts: **None**
2. Cost or savings to any other State agency: **None**
3. Cost to any local agency or school district which must be reimbursed in accordance with Government Code, Section 17561: **None**
4. Other non-discretionary cost or savings imposed upon local agencies: **None**
5. Cost or savings in federal funding to the State: **None**
6. Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other States: **None**

Cost impact on private persons or directly affected businesses: The State Fire Marshal is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- a) create or eliminate jobs within California;
 - b) create new businesses or eliminate existing businesses within California; or
 - c) affect the expansion of businesses currently doing business within California.
8. Significant effect on housing costs: **None**

SMALL BUSINESS EFFECTS

The State Fire Marshal has made the determination that these amendments to regulations will have no substantial effect to small businesses. Health and Safety Code Section 13195 requires that the State Fire Marshal adopt and administer regulations for the service, testing maintaining of automatic fire suppression system. Currently Title 19 Chapter 5 requires all suppression systems to be tested in accordance with the standards set forth if a requirement is not addressed in Title 19 then a national standard would be used to complete the service, testing maintaining which is presently National Fire Protection Association (NFPA) 25.

CONSIDERATION OF ALTERNATIVES

The State Fire Marshal must determine that no reasonable alternative he considered or that has otherwise been identified and brought to its attention would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses than the proposed action.

The State Fire Marshal invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations during the written comment period.

CONTACT PERSON

Inquiries concerning the proposed regulatory action, or requests for copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, or other information upon which the rulemaking is based may be directed to:

Kevin Reinertson
P.O. Box 944246
Sacramento, California 94244-2460
Telephone: (916) 327-4998
Fax: (916) 445-8459
E-mail: Kevin.reinertson@fire.ca.gov

Alternate Contact:

James Parsegian, Supervising DSFM
P.O. Box 944246
Sacramento, California 94244-2460
Telephone: (916) 445-8415
Fax: (916) 445-8458
E-mail: james.parsegian@fire.ca.gov

**AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS**

The Office of the State Fire Marshal will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office, shown above. As of this date, this notice is published in the Notice Register the State Fire Marshal rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons for the proposed action. The full text of the regulations, along with the final statement of reasons upon which the changes are based is available from the contact person as shown. Copies may be obtained by contacting Kevin Reinertson at the address or telephone number listed above.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

Following the 45-day comment period, the State Fire Marshal may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text — with changes indicated — shall be made available to the public for at least 15 days before the State Fire Marshal adopts (amends or repeals) the regulations as revised. Requests for copies of any modified regulations should be sent to Kevin Reinertson at the address indicated above. The State Fire Marshal will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**AVAILABILITY OF THE FINAL
STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Kevin Reinertson at the above address.

**AVAILABILITY OF DOCUMENTS
ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons and the text of proposed regulations, highlighted in underline and strikeout, can be accessed through our web-site at <http://osfm.fire.ca.gov>.

**TITLE 21. CALIFORNIA HIGH SPEED
RAIL AUTHORITY****NOTICE OF PROPOSED RULEMAKING ACTION**

The California High Speed Rail Authority (Authority) proposes to adopt permanent regulations that establish the procedures for selection of private architectural and engineering firms. The Authority will consider all comments, objections, and recommendations specifically directed at the proposed action or the procedures followed before the Authority adopts the proposed rulemaking action.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Authority.

The written comment period closes at 5:00 p.m. on August 7, 2006. The Authority will only consider writ-

ten comments received at the following address by that time. Submit comments to:

Carrie Pourvahidi
California High-Speed Rail Authority
925 L Street, Suite 1425
Sacramento, CA 95814

Comments that are not more than 10 pages will be accepted by fax at (916) 322-0827. A fax transmission must be completed by the deadline given above.

A public hearing has not been scheduled. However, if any interested person submits a written request for a public hearing within 15 days prior to the close of the written comment period, the Authority will give notice of and hold a public hearing.

Comments may also be submitted electronically to Carrie Pourvahidi at cpourvahidi@hsr.ca.gov by the deadline given above.

AUTHORITY AND REFERENCE

Authority Citation: The proposed regulations are authorized by Government Code sections 4526, 4529.10, 4529.14, California Constitution, Article XXII sections 1 and 2, and the Public Contract Code section 6106.

Reference Citation: The particular code sections implemented, interpreted, or made specific by these proposed regulations are Government Code sections 4525-4529.5, 4529.10-4529.20, 87100, California Constitution, Article XXII sections 1 and 2, Public Resources Code section 21065, and Public Utilities Code sections 185000-185038.

INFORMATIVE DIGEST: Summary of Existing Laws and Effects of Proposed Rulemaking

Background and History:

In 1996 the Legislature adopted the California High Speed Rail Act. Pursuant to the Act the High Speed Rail Authority was established. The Act directs the Authority to plan a high-speed rail system for California and eventually to enter into agreements with public and private entities to effect the construction of such a system (See Public Utilities Code 185000-185038).

The proposed high-speed train project would be one of the largest public works projects in the nation requiring the design and construction of over 700 miles of alignment. In order to facilitate the design and construction the Authority expects to be entering into a multitude of contracts in a variety of professional fields over the next decade. The promulgation of these regulations will set the guideline for procuring these services.

The State Constitution allows the State and local governments to contract with qualified private entities for architectural and engineering services for all phases of a public works project (see Article XXII, sections 1 and 2). Thus, government agencies could decide to contract out for these specific services in any case, rather than just on an exception basis.

The Government Code (sections 4529.10-4529.20) states:

- Define the term “architectural and engineering services” to include all architectural, landscape architectural, environmental, engineering, land surveying, and construction project management services; and
- Require architectural and engineering services to be obtained through a fair competitive selection process that avoids conflicts of interest.

Effect of Proposed Rulemaking

The proposed regulations make it possible for the Authority to enter into many of the contracts which will be necessary for the next phases of implementation of the Legislature’s directive concerning the planning and construction of a high-speed train system.

INFORMATIVE DIGEST—POLICY STATEMENT OVERVIEW

The objective of the proposed regulations is to provide internal procedures for contracting for architectural and engineering services.

The Authority does not currently have such regulations.

Government Code section 4526 authorizes the Authority to adopt regulations for the aforementioned purposes.

The regulations in this rulemaking do not differ substantially from existing comparable federal statute or regulations.

COMPARABLE FEDERAL REGULATION OR STATUTE

The proposed regulations do not differ substantially from existing comparable federal statute or regulations. The proposed regulations avoid duplication and conflict with federal statutes and federal regulations.

LOCAL MANDATE DETERMINATION

These regulations do not create a local mandate. The Authority has determined that the proposed rulemaking does not impose a mandate on local agencies or schools, or a mandate that is required under part 7 (beginning with section 17500), Division 4, Title 2, of the Government Code.

DISCLOSURES/ESTIMATE OF ECONOMIC AND FISCAL IMPACT

Fiscal Impact on Local Agencies or School Districts: There will be no fiscal impact on local governments because they generally can now contract for architectural and engineering services. These regulations do not impose any cost on a local agency or school district which is required to be reimbursed pursuant to government Code sections 17500–17630, nor do they impose any non–discretionary cost or saving on a local agency.

Fiscal Impact on State Government: Unknown fiscal impact on State spending for architectural and engineering services and construction project delivery. Actual impact will depend on how the State uses the contracting flexibility granted by these regulations. These regulations will not result in any cost or savings in federal funding to the State.

Initial Determination Regarding Impact on Housing Costs: The Authority has made an initial determination and is not aware of any effect the proposed action will have on housing costs.

Initial Determination Regarding Economic Impact on Business: The Authority has made an initial determination that the proposed action will not have a significant, statewide, adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. (These regulations increase the business opportunities since they are designed to select private firms that offer services to the Authority.)

Assessment of Effect on Jobs and Businesses: Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Cost Impact on Representative Person or Business: The Authority is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Determination Regarding Effect on Small Business: The Authority has made an initial determination and is not aware of any adverse effect on small businesses. Small businesses with access to electronic publication tools will have more of an opportunity to compete for services under these regulations.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Authority must determine that no reasonable alternative which is considered or which has otherwise been identified and brought to

the attention of the agency would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

The Authority invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Carrie Pourvahidi, Deputy Director
High Speed Rail Authority
925 L Street, Suite 1425 Sacramento, CA 95814
Telephone: (916) 322–1422
Fax: (916) 322–0827
cpourvahidi@hsr.ca.gov

The backup contact person for these inquiries is:

Dan Leavitt, Deputy Director
High Speed Rail Authority
925 L Street, Suite 1425 Sacramento, CA 95814
Telephone: (916) 324–1541
Fax: (916) 322–0827
dleavitt@hsr.ca.gov

Questions on the substance of the proposed regulations may be directed to Carrie Pourvahidi.

Please direct requests for copies of the proposed text (the “express terms”) of the regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Carrie Pourvahidi at the above address.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Authority will have the entire rulemaking file available for public inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the Initial Statement of Reasons and the Economic and Fiscal Impact statement (STD Form 399). Copies may be obtained by contacting Carrie Pourvahidi at the address or phone number listed above.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Authority may

adopt the proposed regulations substantially as described in this notice. If the Authority makes substantive modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Authority adopts the regulations as revised.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Carrie Pourvahidi at the above address and will be made available through the Authority website at www.cahighspeed-rail.ca.gov.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations can be accessed through the Authority website at www.cahighspeedrail.ca.gov.

GENERAL PUBLIC INTEREST

DEPARTMENT OF CORPORATIONS

California's Investment and Financing Authority

WAYNE STRUMPFER

**Acting California Corporations Commissioner
Sacramento, California**

IN REPLY REFER TO:

FILE NO: PRO 22/01

INVITATION FOR COMMENTS ON ADMINISTRATIVE REGULATION UNDER THE CORPORATE SECURITIES LAW

NOTICE

Pursuant to Government Code Section 11346(b), the Department of Corporations (the "Department") is inviting comments from interested persons to address whether the Department should adopt additional qualification standards for mortgage programs, as discussed below.

Comments from interested persons will assist the Department in determining whether amendments are necessary, appropriate, and adequate.

COMMENTS REQUESTED ON THE NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION (NASAA) GUIDELINES

Under the Corporate Securities Law of 1968, the Commissioner of Corporations (Commissioner) is responsible for regulating the offer and sale of securities. This law makes it unlawful to offer or sell a security in this state unless the transaction is qualified (reviewed and approved) by the Commissioner, or is exempt or excluded from qualification. Title 10, California Code of Regulations, Sections 260.140 et seq., set forth the qualification standards of the Commissioner. Existing law does not include rules that specifically regulate the qualification of direct participation mortgage programs. The Department has applied rules related to real estate programs in reviewing applications for qualification of direct participation mortgage programs. The Department believes that it is necessary to consider adopting rules that specifically regulate these types of investment transactions including, but not limited to, investments in multi-lender securities transactions.

NASAA has developed and adopted uniform guidelines for the qualification of mortgage programs. These NASAA guidelines have already been adopted in seven other states. The Department is considering adopting the NASAA guidelines, and is considering modifications as described below, to apply to qualification of direct participation mortgage programs in the form of limited partnerships, trusts, limited liability companies, and limited liability partnerships, and applied by analogy to mortgage programs in other forms, including but not limited to, multi-lender programs. In addition to determining whether the amendments are necessary, appropriate, and adequate, the Department is seeking a broad range of comments on whether the regulations will help deter fraudulent or deceptive business activities. In soliciting comments, the Department seeks to ensure that all interests are fairly represented and considered before any amendments to the rules are proposed for adoption.

COMMENTS REQUESTED ON MODIFICATIONS TO THE NASAA GUIDELINES

In addition to considering the adoption of the NASAA guidelines to govern the qualification of mortgage programs, the Department also solicits comments on the following:

1. Whether Section III.A.2 of the NASAA guidelines should be revised to require the sponsor to propose both minimum net worth and minimum income standards for the Commissioner's consideration.
2. Whether Sections III.B.1.a and III.B.1.b of the NASAA guidelines should be revised to increase

the investor suitability standards from a minimum of \$45,000 in net worth and gross income to \$65,000, and to increase the minimum net worth standard alone from \$150,000 to \$250,000.

3. Whether Sections V.H.2.a and V.H.2.b of the NASAA guidelines should be revised to require disclosure of both the circumstances and terms of the loan, and a written opinion from an independent and qualified adviser.
4. Whether Section V.I.5.b of the NASAA guidelines should be revised to increase the investor suitability standards from a minimum of \$60,000 in gross income to \$65,000, to increase the minimum net worth standard from \$225,000 to \$250,000, and to permit the investor to meet the suitability standards based on a minimum net worth alone of \$500,000. The NASAA Guidelines do not permit the investor to meet the minimum standards based only on net worth.
5. Whether the NASAA guidelines should be revised to include a requirement that the sponsor must provide a statement indicating whether the sponsor is licensed, or exempt from licensure, as a real estate broker pursuant to Business and Professions Code 10000 et seq. If the sponsor is exempt, the sponsor must also provide an explanation of the reasons for the exemption. The NASAA Guidelines do not require this statement.

AVAILABILITY OF THE NASAA GUIDELINES

The NASAA Mortgage Program Guidelines are available on the Department's website located at www.corp.ca.gov, at the "Rulemaking" link, under the heading of "Invitation for Comments."

TIME FOR COMMENTS

The Department requests comments be received by: September 22, 2006.

WHERE TO SUBMIT COMMENTS

Please reference PRO 22/01 in correspondence to the Department. Please submit comments as follows:

Karen Fong
Office of Law and Legislation
1515 K Street, Suite 200
Sacramento, CA 95814-4052

Written comments may also be sent to Karen Fong (1) via electronic mail at regulations@corp.ca.gov or (2) via fax at (916) 322-5875.

CONTACT PERSONS

Non-substantive inquiries concerning this INVITATION FOR COMMENTS, such as requests for copies of documents or questions regarding timelines, may be directed to Karen Fong at (916) 322-3553. Inquiries regarding the substance of this invitation for comments may be directed to Peggy Fairman at (916) 324-5217.

Dated: June 7, 2006

Sacramento, California

WAYNE STRUMPFER

Acting California Corporations Commissioner

By _____

TIMOTHY L. Le BAS

Deputy Commissioner and General Counsel

Office of Law and Legislation

(916) 322-3553

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS

Vocational Nursing Program — Fee Changes

In this regulatory action, the Board of Vocational Nursing and Psychiatric Technicians amends two regulations establishing the various fees for the Vocational Nursing Program.

Title 16

California Code of Regulations

AMEND: 2537, 2537.1

Filed 06/14/06

Effective 01/01/07

Agency Contact:

Marina Okimoto

(916) 263-7845

DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS

Narcotic Treatment Program License Fees

This regulatory action increases the license fees for Narcotic Treatment Programs and provides for the administrative review of licensing actions.

Title 9
California Code of Regulations
ADOPT: 10056, 10057
Filed 06/07/06
Effective 06/07/06
Agency Contact: Mary Conway (916) 327-4742

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Bridging Education Program

This regulation package implements required educational programming, first mandated under the Fiscal Year 2003/2004 Budget Act. Additionally, the regulations update regulations regarding credit earning, work/training incentive groups and excused time off. Various changes occurred in these programs necessitating the changes, including the elimination of “earning” excused time off. Also, the regulations make changes to be consistent with the reorganization of the Department, substituting “secretary” for “director” in multiple regulations.

Title 15
California Code of Regulations
ADOPT: 3040.2 AMEND: 3000, 3040, 3041, 3043, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045, 3045.1, 3045.2, 3045.3, 3075
Filed 06/09/06
Effective 07/09/06
Agency Contact: Randy Marshall (916) 341-7328

DEPARTMENT OF FOOD AND AGRICULTURE

Diaprepes Root Weevil Interior Quarantine

This emergency regulatory action adds approximately two square miles to the quarantine area in San Diego County for the West Indian Sugarcane root borer (“WIS”) (*Diaprepes abbreviatus*). Parts of Los Angeles, Orange and San Diego counties are already established as quarantine areas for this purpose.

Title 3
California Code of Regulations
AMEND: 3433(b)
Filed 06/12/06
Effective 06/12/06
Agency Contact: Stephen Brown (916) 654-1017

DEPARTMENT OF HEALTH SERVICES

Transitional Inpatient Care

This amendment to the California Code of Regulations deletes all reference to the Transitional Inpatient Care program from Title 22 pursuant to the repeal of Welfare & Institutions Code Section 14132.22, which removed all statutory authority for the Department of

Health Services to conduct the Transitional Inpatient Care Program.

Title 22
California Code of Regulations
AMEND: 51215.6, 51321, 51323, 51535.1, 51542, 51546 REPEAL: 51124.1, 51215.4, 51335.1, 51511.3
Filed 06/12/06
Effective 06/12/06
Agency Contact: Ben Carranco (916) 440-7766

EDUCATION AUDIT APPEALS PANEL

Supplement to Guide for Audits of K-12 LEAs — FY 2005-06

This is the certificate of compliance to permanently adopt emergency regulations (OAL file no. 06-0207-02 E) that include the number of audit procedures for state compliance requirements in the Morgan-Hart Class Size Reduction Program applicable to fiscal year 2005-2006, establish which sections of the audit guide are applicable to each fiscal year, establish procedures for auditing schools participating in the Morgan-Hart Class Size Reduction Program, and deal with state compliance procedures for charter schools.

Title 5
California Code of Regulations
ADOPT: 19827 AMEND: 19812, 19813, 19814, 19814.1, 19815, 19816, 19817, 19817.1, 19826, 19826.1, 19836, 19851, 19853
Filed 06/09/06
Effective 06/09/06
Agency Contact:
Timothy E. Morgan (916) 445-7745

EDUCATION AUDIT APPEALS PANEL

Audits of K-12 Local Education Agencies FY 06-07

This emergency rulemaking adopts the fiscal year 06/07 audit guide for the annual audit of the books and accounts of every local education agency (LEA) that serves K or any of grades 1 through 12 (K-12). Education Code section 41020 mandates this annual audit. This section also requires that the audit be developed and reported using a format established by the Controller after consultation with the Superintendent of Public Instruction and the Director of Finance. Education Code section 14502.1 requires the Controller after this consultation to propose the content of an audit guide to EAAP for review and possible amendment. EAAP is then to adopt the guide pursuant to the APA by July 1st of the audit year. This emergency is EAAP's adoption of the Controller's proposal for FY 06-07. The biggest change in this rulemaking is the addition of a new section 19833.5 Excess Sick Leave which directs the auditor to determine whether excess sick leaves has been afforded to CalSTRS members.

Title 5
California Code of Regulations
ADOPT: 19833.5, 19833.6 AMEND: 19815,
19816, 19816.1, 19819, 19824, 19828.1, 19831
Filed 06/12/06
Effective 06/12/06
Agency Contact: Carolyn Pirillo (916) 445-7745

ENVIRONMENTAL PROTECTION AGENCY

Unified Program Single Fee System For State Agencies

This is the certification of compliance for the permanent adoption of two regulations that define terms and establish a mechanism for the setting of fees payable by a regulated business to any state agency acting as the Certified Uniform Program Agency in a county where no local agency has been certified to serve in that capacity.

Title 27
California Code of Regulations
AMEND: 15241, 15242
Filed 06/13/06
Effective 06/13/06
Agency Contact: Mark Abrams (916) 322-2833

FAIR POLITICAL PRACTICES COMMISSION

Reimbursement of Expenditures

This is a nonsubstantive action concerning Reimbursement of Expenditures. This file is submitted for filing with the Secretary of State and printing only.

Title 2
California Code of Regulations
AMEND: 18526
Filed 06/08/06
Effective 06/08/06
Agency Contact: Joan Giannetta (916) 322-5660

FISH AND GAME COMMISSION

Procedures for License or Permit Revocation

Current regulations outline the procedures governing the revocation, suspension, transfer, reinstatement and waiver of renewal requirements for licenses and permits, including hunting and sport fishing licenses/permits. This proposed rulemaking addresses procedures in requesting continuances of an appeal hearing. Failure to appear as scheduled or obtain a continuance by a written request, without a waiver, would be "deemed a withdrawal of the appeal." This regulatory change would also add the option of using former Executive Directors of the Commission as hearing officers at these hearings.

Title 14
California Code of Regulations
AMEND: 746
Filed 06/08/06
Effective 07/08/06
Agency Contact: Sheri Tiemann (916) 654-9872

CCR CHANGES FILED WITH THE SECRETARY OF STATE WITHIN JANUARY 11, 2006 TO JUNE 14, 2006

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

03/28/06 AMEND: 1395
03/27/06 ADOPT: 250, 260, 270, 280 AMEND: 55

Title 2

06/08/06 AMEND: 18526
05/26/06 ADOPT: 18438.5 AMEND: 18438.8
05/25/06 AMEND: 18942
05/24/06 ADOPT: Div. 8, Ch. 111, Sec. 59560
05/24/06 AMEND: 433.1
05/17/06 ADOPT: 22610.1, 22610.2, 22610.3, 22610.4
05/15/06 AMEND: 1859.2, 1859.40, 1859.51, 1859.70, 1859.93.1, 1859.95, 1859.147, Form SAB 50-04
05/08/06 AMEND: 18537.1
04/24/06 AMEND: 20108.70, Division 7
04/10/06 ADOPT: 20108, 20108.1, 20108.12, 20108.15, 20108.18, 20108.20, 20108.25, 20108.30, 20108.35, 20108.36, 20108.37, 20108.38, 20108.40, 20108.45, 20108.50, 20108.51, 20108.55, 20108.60, 20108.65, 20108.70, 20108.75, 20108.80
04/04/06 ADOPT: 18215.1 AMEND: 18225.4, 18428
03/14/06 ADOPT: 1859.70.3, 1859.71.5, 1859.78.9, 1859.93.2, 1859.93.3 AMEND: 1859.2, 1859.61, 1859.74, 1859.77.1, 1859.79, 1859.79.2, 1859.83, 1859.104, 1859.202, 1859.66
03/08/06 AMEND: 56, 56.1, 56.2, 56.3, 56.4, 56.5, 56.6, 56.7, 56.8

02/28/06 AMEND: 57.1, 57.2, 57.3, 57.4
 02/21/06 AMEND: 2320(a) (2)
 02/21/06 REPEAL: 2550, 2551, 2552, 2553, 2554,
 2555, 2556
 02/21/06 ADOPT: 18361.10
 02/21/06 ADOPT: 18371
 02/16/06 AMEND: Div. 8, Ch. 58, Sec. 54700
 01/30/06 AMEND: Div. 8, Ch. 103, Sec. 59150
 01/24/06 REPEAL: 649.23, 649.25, 649.26,
 649.27
 01/23/06 AMEND: 18351
 01/20/06 AMEND: 1897
 01/17/06 ADOPT: 560 REPEAL: 560
 01/17/06 AMEND: Div. 8, Ch. 64, Sec. 55300

Title 3

06/12/06 AMEND: 3433(b)
 05/23/06 ADOPT: 6580, 6582, 6584
 05/23/06 ADOPT: 3424
 05/19/06 AMEND: 3433(b)
 05/18/06 ADOPT: 1472.7.2 AMEND: 1472,
 1472.4
 05/18/06 AMEND: 3591.12(a)
 05/11/06 AMEND: 3591.19
 04/28/06 AMEND: 1380.19, 1420.10
 04/27/06 AMEND: 3406(b)
 04/13/06 AMEND: 1446.4, 1454.10, 1462.10
 04/11/06 AMEND: 3700(c)
 04/11/06 AMEND: 3700(c)
 04/10/06 AMEND: 3406(b)
 03/30/06 AMEND: 3406(b)
 03/28/06 AMEND: 3406(b)
 03/23/06 ADOPT: 6310 AMEND: 6170
 03/07/06 AMEND: 3700(c)
 03/01/06 AMEND: 3406(b)
 02/22/06 AMEND: 3406(b)
 02/21/06 AMEND: 3700(c)
 02/21/06 AMEND: 3433(b)
 02/21/06 ADOPT: 3591.19(a)(b)(c) AMEND:
 3591.19(a)
 02/16/06 ADOPT: 3433
 02/07/06 AMEND: 6502
 02/02/06 AMEND: 3700(c)
 01/12/06 AMEND: 6393, 6394, 6395, 6396

Title 4

06/01/06 AMEND: 8070(d), 8071(a)(9), 8072,
 8073(c), 8074(b), 8076(c)(1)
 05/18/06 ADOPT: 12358
 05/05/06 AMEND: 150
 03/24/06 ADOPT: 10175, 10176, 10177, 10178,
 10179, 10180, 10181, 10182, 10183,
 10184, 10185, 10186, 10187, 10188,
 10189, 10190, 10191

03/23/06 ADOPT: 10302(bb), 10305(d), 10305(e),
 10315(d), 10315(j), 10320(b), 10322(e),
 10325(c), 10325(c)(3)(K), 10325(c)(6),
 10325(c)(8), 10325(c)(12), 10325(f)(7),
 10325(f)(10), 10325(g)(5)(B)(ii),
 10325(g)(5)(B)(iv), 10325(g)(5)(B)(v),
 10326(g)(6), 1036(g) (7)
 02/28/06 AMEND: 4143
 01/25/06 ADOPT: 12002, 12004, Appendix A
 AMEND: 12100, 12200, 12220, 12300
 01/20/06 ADOPT: 1843.6

Title 5

06/12/06 ADOPT: 19833.5, 19833.6 AMEND:
 19815, 19816, 19816.1, 19819, 19824,
 19828.1, 19831
 06/09/06 ADOPT: 19827 AMEND: 19812, 19813,
 19814, 19814.1, 19815, 19816, 19817,
 19817.1, 19826, 19826.1, 19836, 19851,
 19853
 05/25/06 AMEND: 1074
 05/15/06 ADOPT: 11987, 11987.1, 11987.2,
 11987.3, 11987.4, 11987.5, 11987.6,
 11987.7
 05/12/06 AMEND: 19819, 19851
 04/28/06 AMEND: 51026, 53206, 54024, 54100,
 54616, 54700, 54706, 55005, 55160,
 55300, 55316, 55316.5, 55320, 55321,
 55322, 55340, 55350, 55401, 55403,
 55404, 55512, 55522, 55530, 55605,
 55675, 55753.5, 55753.7, 56000, 56050,
 56062, 56200, 56201, 56202, 56204
 04/04/06 AMEND: 42920
 04/04/06 AMEND: 11704
 03/16/06 ADOPT: 15566, 15567, 15568, 15569
 03/16/06 ADOPT: 1207.1, 1207.2 AMEND:
 1204.5
 03/15/06 AMEND: 51000, 51022, 51023, 51100,
 51102, 53407, 53410.1, 53413, 53501,
 54010, 54041, 54050, 54200, 54220,
 54300, 54600, 54604, 54608, 54610,
 54612, 54626, 54630, 55002, 55231,
 55402, 55405, 55534, 55600, 55602,
 55630, 55720, 55729, 55756.5, 55761,
 5580
 02/17/06 ADOPT: 19827 AMEND: 19814,
 19814.1, 19851, 19853
 01/19/06 ADOPT: 11987, 11987.1, 11987.2,
 11987.3, 11987.4, 11987.5, 11987.6,
 11987.7

Title 8

06/06/06 AMEND: 5155
 05/25/06 AMEND: 4650
 04/19/06 AMEND: 3395

04/17/06	AMEND: 2320.4(a)(3)	01/23/06	AMEND: 3400
04/11/06	ADOPT: 32613 AMEND: 32130, 32135, 32140, 32155, 32190, 32325, 32350, 32400, 32450, 32500, 32602, 32604, 32605, 32607, 32609, 32615, 32620, 32621, 32625, 32630, 32635, 32640, 32644, 32647, 32648, 32649, 32650, 32680, 32690, 32781, 32980, 33020, 40130	01/19/06	AMEND: 400
04/04/06	ADOPT: 6070, 6074, 6075, 6080, 6085, 6087, 6089, 6090, 6095, 6100, 6105, 6110, 6115, 6120 REPEAL: 1200, 1204, 1205, 1210, 1215, 1216, 1217, 1220, 1225, 1230, 1240, 1250, 1270, 1280	Title 10	
04/03/06	AMEND: 1720	06/05/06	AMEND: 3528
03/22/06	AMEND: 9701, 9702, 9703	06/01/06	ADOPT: 2695.1(g), 2695.14 AMEND: 2695.1, 2695.2, 2695.7, 2695.8, 2695.9, 2695.10, 2695.12
03/15/06	AMEND: 1710(f)	05/25/06	ADOPT: 2188.23, 2188.24, 2188.83 AMEND: 2186.1, 2188.2, 2188.6, 2188.8
03/14/06	ADOPT: 9783.1 AMEND: 9780, 9780.1, 9781, 9782, 9783 REPEAL: 9780.2, 9784	05/18/06	AMEND: 2498.6
02/28/06	AMEND: 1644	04/28/06	ADOPT: 2670.1, 2670.2, 2670.3, 2670.4, 2670.5, 2670.7, 2670.8, 2670.9, 2670.10, 2670.11, 2670.12, 2670.13, 2670.14, 2670.15, 2670.17, 2670.18, 2670.19, 2670.20, 2670.21, 2670.22, 2670.23, 2670.24
02/27/06	AMEND: 3637, 3638, 3639, 3640, 3642, 3646	04/20/06	AMEND: 2498.5
02/22/06	ADOPT: 8397.14, 8397.15, 8397.16 AMEND: 8354, 8397.12	04/18/06	AMEND: 2498.4.9
02/14/06	AMEND: 31100	04/18/06	AMEND: 2498.4.9
02/09/06	ADOPT: 296.0 296.1, 296.2, 296.3, 296.4 AMEND: 290.1, 291.1, 291.2, 291.3, 291.4, 291.5, 292.0, 293.0, 295.0	03/30/06	AMEND: 2698.52(c), 2698.53(b), 2698.56(c)
02/09/06	AMEND: 15201, 15300, 15400, 15400.2, 15402.4, 15450.1, 15452, 15454, 15463	03/24/06	REPEAL: 2546, 2546.1, 2546.2, 2546.3, 2546.4, 2546.5, 2546.6, 2546.7, 2546.8
01/27/06	AMEND: 1518	03/24/06	ADOPT: 2498.6
01/27/06	AMEND: 100, 102	03/09/06	AMEND: 2697.6
01/25/06	AMEND: 1635	02/28/06	ADOPT: 2713, 2715.5, 2797, 2841.5, 3012.3 AMEND: 2716.5, 2770, 2791, 2792.32, 2795.1, 2846.1, 2846.5, 2846.7, 2849.01, 2930 REPEAL: 2708, 2709, 2821, 2822
Title 9		02/27/06	AMEND: 2632.5 (c) (1) (A)
06/07/06	ADOPT: 10056, 10057	02/09/06	AMEND: 2699.6600
05/24/06	ADOPT: 3400	01/31/06	ADOPT: 310.100.4, 310.114.4 AMEND 310.101
05/19/06	ADOPT: 1810.100, 1810.110, 1810.200, 1810.201, 1810.202, 1810.203, 1810.203.5, 1810.204, 1810.205, 1810.205.1, 1810.205.2, 1810.206, 1810.207, 1810.208, 1810.209, 1810.210, 1810.211, 1810.212, 1810.213, 1810.214, 1810.214.1, 1810.215, 1810.216	01/25/06	ADOPT: 2025, 2026, 2027, 2028, 2029, 2030
04/19/06	AMEND: 10000, 10010, 10015, 10020, 10025, 10030, 10035, 10040, 10045, 10050, 10055, 10060, 10065, 10070, 10080, 10085, 10090, 10095, 10105, 10110, 10115, 10120, 10125, 10130, 10140, 10145, 10150, 10155, 10160, 10165, 10170, 10175, 10185, 10190, 10195	01/23/06	ADOPT: 2592, 2592.01, 2592.02, 2592.03, 2592.04, 2592.05, 2592.06, 2592.07, 2592.08, 2592.09, 2592.10, 2592.11, 2592.12, 2592.13, 2592.14
		01/23/06	AMEND: 2698.99
		01/20/06	AMEND: 2498.6
		Title 11	
		05/23/06	AMEND: 1002(c)
		05/22/06	REPEAL: 2033
		05/22/06	AMEND: 968.44, 968.46
		05/12/06	AMEND: 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910
		03/15/06	AMEND: 351, 357, 371, 376, 377, 378, 380
		02/22/06	AMEND: 51.19
		02/09/06	AMEND: 1001, 1015 REPEAL: 1020, 1021

01/31/06	ADOPT: 64.2	04/03/06	ADOPT: 4970, 4970.02, 4970.03, 4970.04, 4970.05, 4970.06, 4970.07, 4970.08, 4970.09, 4970.10, 4970.11, 4970.12, 4970.13, 4970.14, 4970.15, 4970.16, 4970.17, 4970.18, 4970.19, 4970.20, 4970.21 AMEND: 4970.00, 4970.01 REPEAL: 4970.02, 4970.03, 4970.04
01/19/06	AMEND: 1005	03/28/06	AMEND: 187
01/11/06	ADOPT: 116.2	03/27/06	AMEND: 163.1
Title 12		03/22/06	AMEND: 119, Appendix A
04/10/06	AMEND: 453.1	03/20/06	AMEND: 27.82
Title 13		03/20/06	ADOPT: 5.81, 27.92 AMEND: 5.80, 27.60, 27.90, 27.95
05/22/06	AMEND: 425.01	03/02/06	ADOPT: 1.60, 1.61, 1.93 AMEND: 1.71
05/22/06	ADOPT: 86500, 86501	03/01/06	AMEND: 851.23
05/18/06	ADOPT: 550.20 AMEND: 551.11, 551.12	02/23/06	AMEND: 2000, 2090, 2105, 2110, 2401, 2420, 2425, 2430, 2501, 2530, 2535, 2540, 2850
05/02/06	ADOPT: 345.07 AMEND: 345.06	02/10/06	AMEND: 895, 895.1, 1038, 1038(f)
04/04/06	AMEND: 423.00	02/09/06	ADOPT: 18459.1.2, Forms 203, 204 AMEND: 18449, 18450, 18451, 18453.2, 18456, 18456.2.1, 18457, 18459, 18459.1, 18459.2.1, 18459.3, 18460.1, 18460.1.1, 18460.2, 18460.2.1, 18461, 18462, 18463, 18464, 18466, Penalty Tables 1&2
03/24/06	AMEND: 590	02/08/06	AMEND: 2310
03/24/06	AMEND: 156.00	Title 15	
02/22/06	ADOPT: 225.35 AMEND: 225.03, 225.09, 225.12, 225.18, 225.21, 225.42, 225.45, 225.48, 225.51, 225.54, 225.72	06/09/06	ADOPT: 3040.2 AMEND: 3000, 3040, 3041, 3043, 3043.3, 3043.4, 3043.5, 3043.6, 3044, 3045, 3045.1, 3045.2, 3045.3, 3075
02/22/06	AMEND: 345.39, 345.45, 345.56, 345.78	06/06/06	AMEND: 3173.1
02/15/06	ADOPT: 1971.1	05/25/06	AMEND: 3040.1, 3341.5, 3375, 3375.3, 3378
02/14/06	ADOPT: 152.00, 190.03, 268.10, 268.12, 280.12, 285.06, 292.06, 340.13 AMEND: 330.08, 345.65 REPEAL: 330.10, 345.67	05/22/06	ADOPT: 3043.7 AMEND: 3043.1, 3327, 3328
01/31/06	ADOPT: 2023, 2023.1, 2023.2, 2023.3, 2023.4 AMEND: 1956.1, 2020, 2021 REPEAL: 1956.2, 1956.3, 1956.4	05/16/06	AMEND: 3999.2
01/30/06	AMEND: 77.05, 77.10, 77.15, 77.16, 77.17	05/16/06	AMEND: 3999.1.10, 3999.1.8
01/18/06	AMEND: 553.70	05/01/06	AMEND: 2510, 2511, 2512, 2513
01/13/06	AMEND: 2467, 2467.1	04/24/06	ADOPT: 3054.1, 3054.2, 3054.3, 3054.4, 3054.5, 3054.6 AMEND: 3050, 3051, 3052, 3053, 3054
01/12/06	AMEND: 970	03/27/06	AMEND: 3176.3
01/12/06	ADOPT: 1875	01/25/06	AMEND: 3482
Title 14		01/19/06	AMEND: 3370
06/08/06	AMEND: 746	01/17/06	AMEND: 3000, 3062, 3075, 3210
06/05/06	AMEND: 791.7, Form FG OSPR-1972	Title 16	
05/26/06	AMEND: 670.2	06/14/06	AMEND: 2537, 2537.1
05/23/06	AMEND: 401	06/05/06	AMEND: 2630, 2630.1
05/17/06	AMEND: 182	06/05/06	AMEND: 3303
05/11/06	AMEND: 27.80	06/05/06	ADOPT: 2608
05/08/06	ADOPT: 1299	06/01/06	ADOPT: 137
04/21/06	AMEND: 27.60, 28.59		
04/17/06	AMEND: 791.7, 793, 795		
04/11/06	AMEND: 18454, 18456, 18456.3, CIWMB form 60		
04/10/06	AMEND: 630		
04/03/06	ADOPT: 4970.49, 4970.50, 4970.51, 4970.52, 4970.53, 4970.54, 4970.55, 4970.56, 4970.57, 4970.58, 4970.59, 4970.60, 4970.61, 4970.62, 4970.63, 4970.64, 4970.65, 4970.66, 4970.67, 4970.68, 4970.69, 4970.70, 4970.71, 4970.72		

05/31/06	ADOPT: 869.9 AMEND: 868, 869	05/19/06	AMEND: 12805
05/30/06	AMEND: 3340.1, 3340.16, 3340.16.5, 3340.17, 3340.41 REPEAL: 3340.16.6	05/18/06	ADOPT: 64400.38, 64400.40, 64400.45, 64400.47, 64400.67, 64401.65, 64401.82, 64401.92, 64468.5, 64530, 64531, 64533, 64533.5, 64534, 64534.2, 64534.4, 64534.6, 64534.8, 64535, 64535.2, 64535.4, 64536, 64536.2, 64536.4, 64536.6, 64537, 64537.2, 64537.4
05/22/06	AMEND: 152	05/17/06	ADOPT: 4429 AMEND: 4409, 4400(hh) REPEAL: 4400(ii)
05/12/06	AMEND: 1388, 1388.6, 1389, 1392	05/12/06	ADOPT: 64442, 64443, 64447.3 AMEND: 64415 REPEAL: 64441, 64443
05/01/06	AMEND: 8.1, 12, 12.5, 21, 69	05/10/06	ADOPT: 50960.2, 50960.4, 50960.6, 50960.9, 50960.12, 50960.15, 50960.21, 50960.23, 50960.26, 50960.29, 50960.32, 50960.34, 50960.36, 50961, 50965 AMEND: 50962, 50963, 50964 REPEAL: 50960, 50961
04/17/06	AMEND: 3353	05/08/06	AMEND: 96010
04/17/06	AMEND: 1399.465	04/20/06	AMEND: 70577, 70717, 71203, 71517, 71545
03/29/06	ADOPT: 1399.159.01 AMEND: 1399.159, 1399.159.1 REPEAL: 1399.159.4	04/19/06	ADOPT: 4400(kk) REPEAL: 4414
03/21/06	AMEND: 1914, 1918, 1920, 1950, 1983, 1991, 1993, 1998	04/12/06	AMEND: 4416
03/14/06	REPEAL: 1530	03/24/06	ADOPT: 110056, 110060, 100604, 110100, 110112, 110116, 110124, 110144, 110148, 110156, 110160, 110168, 110204, 110224, 110228, 110232, 110244, 110248, 110246, 110280, 110288, 110296, 110307, 110311, 110315, 110319, 110323, 110347, 110355, 110383, 110410
03/13/06	REPEAL: 1515	03/23/06	AMEND: 926-3, 926-4, 926-5
03/13/06	ADOPT: 1034.1 AMEND: 1021, 1028, 1034	03/20/06	AMEND: 66264.147, 66264.151, 66265.147
03/13/06	ADOPT: 1399.25	03/09/06	ADOPT: 12900
03/10/06	AMEND: 1566, 1566.1	03/07/06	AMEND: 100058, 100066, 100078, 100079
03/09/06	AMEND: 3351.3 and 3351.4	02/02/06	AMEND: 97170, 97172, 97174, 97178, 97180, 97184, 97188, 97190, 97198
03/02/06	ADOPT: 2524.1, 2579.11	01/31/06	ADOPT: 66250.1, 66250.2
02/27/06	AMEND: 1043, 1043.1, 1043.2, 1043.3, 1043.4, 1043.6	01/23/06	AMEND: 51510, 51510.1, 51511, 51511.5, 51511.6, 51535, 51535.1, 51544, 54501
02/24/06	AMEND: 3008, 3031, 3062.1	01/20/06	AMEND: 4448
02/21/06	AMEND: 1833.1, 1870, 1870.1	01/17/06	AMEND: 14000
02/07/06	ADOPT: 1379.19	01/17/06	AMEND: 12000
01/12/06	AMEND: 1313.01		
Title 17		Title 23	
05/15/06	AMEND: 60201	04/25/06	ADOPT: 3948
04/20/06	ADOPT: 93119	04/25/06	ADOPT: 2919
04/17/06	AMEND: 70100, 70100.1, 70200, Incorporated Documents	04/10/06	ADOPT: 2917 AMEND: 2914.5
04/10/06	ADOPT: 30346.11, 30346.12 AMEND: 30345.2, 30346.6, 30348.3	03/28/06	ADOPT: 3944.2
Title 18			
04/24/06	ADOPT: 19591 AMEND: 19513, 19524		
04/20/06	AMEND: 4905		
04/20/06	AMEND: 1707		
02/09/06	AMEND: 4055, 4056, 4057, 4058, 4059, 4060, 4061		
Title 20			
01/12/06	AMEND: 79, 80		
Title 22			
06/12/06	AMEND: 51215.6, 51321, 51323, 51535.1, 51542, 51546 REPEAL: 51124.1, 51215.4, 51335.1, 51511.3		
06/05/06	ADOPT: 66260.201 AMEND: 66260.10, 66261.9, 66273.1, 66273.3, 66273.6, 66273.8, 66273.9, 66273.12, 66273.13, 66273.14, 66273.20, 66273.32, 66273.33, 66273.34, 66273.40, 66273.51, 66273.53, 66273.56, 66273.82, 66273.83, 66273.90, Appendix X to Chapter 11		

03/22/06	ADOPT: 2814.20, 2814.21, 2814.22, 2814.23, 2814.24, 2814.25, 2814.26, 2814.27, 2814.28, 2814.29, 2814.30, 2814.31, 2814.32, 2814.33, 2814.34, 2814.35, 2814.36, 2814.37	01/13/06	ADOPT: 15241, 15242
03/13/06	ADOPT: 3939.21	Title MPP	
02/01/06	ADOPT: 3989.3	04/03/06	AMEND: 11-501, 42-302, 42-701, 42-711, 42-712, 42-713, 42-715, 42-716, 42-718, 42-719, 42-720, 42-721, 42-722, 42-802, 42-1009, 42-1010, 44-111, 63-407 REPEAL: 42-710
01/20/06	ADOPT: 3939.17	02/10/06	AMEND: 63-103.2, 63-300.5, 63-402.229, 63-503.441, 63-509(b), 63-509(c), 63-801.737(QR)
Title 25		01/23/06	AMEND: 42-101
05/15/06	AMEND: 6932	01/12/06	AMEND: 11-400, 11-402, 11-403, and 11-406
04/24/06	AMEND: Adding a title to Ch. 7, Subchapter 21		
02/07/06	AMEND: 10001		
Title 27			
06/13/06	AMEND: 15241, 15242		